



Western Australia

Mining Amendment Act 1998

No. 35 of 1998

An Act to amend the *Mining Act 1978*.

[Assented to 6 July 1998]

The Parliament of Western Australia enacts as follows:

1. Short title

This Act may be cited as the *Mining Amendment Act 1998*.

2. Commencement

This Act comes into operation on the day on which it receives the Royal Assent.

3. Principal Act

In this Act the *Mining Act 1978** is referred to as the principal Act.

[* *Reprinted as at 27 February 1996.*

For subsequent amendments see 1997 Index to Legislation of Western Australia, Table 1, pp. 156-7 and Act No. 10 of 1998.]

4. Section 91 amended and transitional provision

- (1) Section 91(3) of the principal Act is amended —
 - (a) by inserting “and” after paragraph (a);
 - (b) by deleting the semicolon at the end of paragraph (b) and the “and” after that paragraph and substituting a full stop; and
 - (c) by deleting paragraph (c).
- (2) Section 91(4) and (5) of the principal Act are repealed.
- (3) An application for renewal under section 91(4) of the principal Act that has not been determined on the commencement of this Act is to be treated as an application for renewal under section 91A(3)(a) as inserted into the principal Act by section 5.

5. Sections 91A and 91B inserted

After section 91 of the principal Act the following sections are inserted —

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91A. Term and renewal of existing licence or licence granted in respect of existing application

- (1) This section applies to a miscellaneous licence that is —
 - (a) in force on the commencement; or
 - (b) granted on or after the commencement in respect of an application made under section 91 before the commencement.
 - (2) Subject to this Act, a licence to which this section applies remains in force for —
 - (a) a period of 5 years from the day on which it is or was granted; or
 - (b) in the case of a licence referred to in subsection (1)(a) that was renewed before the commencement, the period for which it was so renewed.
 - (3) Notwithstanding subsection (2), on receipt of an application made in the prescribed manner during the final year of the term of the licence, the Minister —
 - (a) may renew the term of the licence as to the whole or any part of the land the subject of the licence —
 - (i) for one further period not exceeding 5 years; and
 - (ii) on such terms and conditions as the Minister thinks fit;
- and

- (b) shall, in the case of a licence renewed under paragraph (a), renew or further renew the term of the licence as to the whole of the land the subject of the licence —
 - (i) for a period that is the same as the period for which the licence was renewed under paragraph (a); and
 - (ii) on the terms and conditions to which the licence was subject before its renewal.
- (4) If an application for renewal is made under this section and the term of the licence would but for this subsection expire, the licence continues in force in respect of the land the subject of the application until the application is determined.
- (5) If the holder of a licence to which this section applies transfers the licence after making an application for renewal under this section, the application continues in the name of the transferee of the licence as if the transferee had made it.
- (6) In this section and section 91B —
“commencement” means the commencement of the *Mining Amendment Act 1998*.

91B. Term and renewal of licence granted in respect of new application

- (1) This section applies to a miscellaneous licence granted in respect of an application made under section 91 on or after the commencement.
- (2) Subject to this Act, a licence to which this section applies remains in force for a period of 21 years.

- (3) Notwithstanding subsection (2), on receipt of an application made in the prescribed manner during the final year of the term of the licence, the Minister —
- (a) shall renew the term of the licence as to the whole of the land the subject of the licence —
 - (i) for one further period of 21 years; and
 - (ii) on the terms and conditions to which the licence was subject before its renewal; and
 - (b) may, in the case of a licence renewed under paragraph (a), renew or further renew the term of the licence as to the whole or any part of the land the subject of the licence —
 - (i) for a period not exceeding 21 years; and
 - (ii) on such terms and conditions as the Minister thinks fit.
- (4) If an application for renewal is made under this section and the term of the licence would but for this subsection expire, the licence continues in force in respect of the land the subject of the application until the application is determined.
- (5) If the holder of a licence to which this section applies transfers the licence after making an application for renewal under this section, the application continues in the name of the transferee of the licence as if the transferee had made it.

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